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In re Application of: HORROBIN, et al.
U.S. Application No.: 10/528,114
PCT No.: PCT/GB03/03985
International Filing Date: 16 September 2003
Priority Date: 16 September 2002
Attorney's Docket No.: P70482USO
For: EICOSAPENTAENOIC ACID (EPA) FOR
TREATING ANOREXIA NERVOSA (AN) AND
BULIMIA

DECISION ON PAPERS
SUBMITTED UNDER
37 CFR 1.42

This decision is issued in response to the 16 June 2005 submission of a declaration executed on behalf of deceased inventor David Frederick HORROBIN by his Executrix Sherri CLARKSON, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 16 March 2005, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. The Transmittal Letter was accompanied by, among other materials, payment of the basic national fee.

On 16 June 2005, applicants filed the declaration considered herein. The declaration was executed by the surviving co-inventor and on behalf of the deceased co-inventor by his Executrix.

DISCUSSION

Pursuant to 37 CFR § 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

37 CFR 1.497(b)(2) states the following:

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been

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required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

The declaration submitted on 16 June 2005 identifies the deceased inventor and states the inventor's country of citizenship and residence, as required for compliance with 37 CFR 1.497(a)(3). The declaration is signed by Sherri CLARKSON as "Executrix" of the deceased inventor, states the relationship to the deceased (i.e., Executrix), and provides the Executrix' country of citizenship and residency. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2).

Based on the above, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**. The declaration filed on 16 June 2005 is accepted as complying with 37 CFR 1.497.

The application will be forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 16 June 2005.



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